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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,669	04/14/2004	Laurence V. Marks	RPS920030081US1	7535

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EXAMINER

BEAULIEU, YONEL

ART UNIT	PAPER NUMBER
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3661

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/02/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/824,669

Applicant(s)

MARKS ET AL.

Examiner

Yonel Beaulieu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 13-15 and 22-36 is/are rejected.
- 7) ☒ Claim(s) 4-12 and 16-21 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

Claim Objections

Claim 27 is objected to because of the following informalities: it is suggested to change "rechnology" (line 3) to -technology-. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 – 3, 13 – 15, and 22 – 36 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6496775 B2 to McDonald, Jr. et al. ("McDonald").

Regarding claims 1, 13, 22 - 24, 29, and 32, McDonald teaches a method and apparatus/product comprising gathering data during a transit of a package (concrete mix) between a source location (at terminal) and a destination location (job site/delivery sites D1 and D2), the data comprising package data comprising a package identifier and location (maintained within 28 and database 30; see computer system of fig. 3), and delivery vehicle data (28) associated with a delivery vehicle carrying the package, the vehicle data comprising; a vehicle identifier (T1, T2, or T3) and a vehicle location (see figs. 1-2 at least); a real-time vehicle location system for identifying a real-time location of the vehicle (consolidating the gathered data to develop current package location information, and; providing access to the current package location information

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in a consolidated tracking display (32; overall, note col. 4, lines 7 – 21; col. 5, line 55 – col. 6, line 26 at least).

Regarding claims 2, 3, 14, 15, 25, 31, 35, and 36, McDonald further teaches real-time location captured using GPS technology (fig. 3; col. 4, line 59 – col. 5, line 25; col. 6, lines 1 – 4 and 61 - 65; and col. 7, lines 40 – 58 at least) – the package being loaded (from B1 or B2 to barrel 8) or unloaded (from the barrel 8 when poured at the job site) from the vehicle.

Regarding claims 26 – 28, 30, 33, and 34, McDonald further teaches automatic capturing of the data by way of one of a bar code scanner and RFID tag technology (col. 1, lines 36 – 41 and col. 13, line 42 – col. 14, line 4).

Allowable Subject Matter

Claims 4 – 12 and 16 – 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art of record fail to teach a method comprising, among other limitations, both gathering package data comprising recording package data in a package tracking database each time the package is handled during transit **and** gathering vehicle data comprising recording the vehicle data in a vehicle tracking database each time the vehicle is accessed during the transit and a program executed on a computer wherein instructions for providing the

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consolidated tracking display comprise instructions effective when executing to indicate to a user which data derives from package handling.


Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. As per attached PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yonel Beaulieu whose telephone number is (571) 272-6955. The examiner can normally be reached on Mon., Wed. & Thur. between 0900 and 1600.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas BLACK can be reached on (571) 272-6956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Yonel Beaulieu
Primary Examiner
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